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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/366,351	08/02/1999	DUANE GALENSKY	GALENSKY5-2	2958

7590 06/17/2003

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EXAMINER
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MEKY, MOUSTAFA M

ART UNIT	PAPER NUMBER
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2157

12

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PR2

<b>Office Action Summary</b>	<b>Application No</b>	<b>Applicant(s)</b>	
	09/366,351	GALENSKY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Moustafa M Meky	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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1. The response and the declaration under 37 CFR 1.131 filed May 20, 2003 have been entered and considered by the examiner.
2. The finality of this application has been withdrawn in response to the declaration filed on May 20, 2003 by the applicant.
3. Claims 1-62 are presenting for examination.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1- 12, 17-29, 34-41, 46-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky (US Pat. No. 5,914,941).
6. As to claims 1-12, 17-19, Janky shows in Figs 1-2, a portable device 44 (see the abstract, lines 1-10, lines 14-18, col 1, lines 8-14, col 2, lines 31-38, col 5, lines 29-67, col 6, lines 21-67, col 7, lines 1-14, lines 33-42, col 8, lines 7-15, col 10, lines 9-14, lines 51-60, col 13, lines 63-67) for receiving and playing multimedia file (such as audio and video file) over a wireless telecommunication network 18, the device 44 comprising:
  - \* a microprocessor 66, see col 9, lines 26-42;
  - \* a transceiver (not shown) for receiving successive blocks of digitized and compressed data from the file over the network 18, see col 8, lines 34-38, lines 47-49;

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\* a non-volatile memory 50 for storing compressed data blocks, see col 8, lines 57-66, col 9, lines 3-6;

\* a server (represented by the program material 12), see col 7, lines 53-67, col 8, lines 1-3, col 11, lines 39-45, col 12, lines 26-29;

\* a memory within the Audio Output Conditioning 52 for storing decompressed data blocks, see col 12, lines 60-67, col 13, lines 1-11; and

\* an output (speaker, headphone 56 and/or display), see col 8, lines 66-67, col 9, line 2. Also, see col 14, lines 15-62, col 15, lines 17-67, col 16, col 17, col 18.

Janky does not teach a buffer for temporarily storing the received blocks of data in which the temporarily stored blocks of data are processed without storing the received blocks of data in a long term memory medium and the blocks of data are deleted by the device following playback. Using a buffer for temporarily storing received blocks of data in which the temporarily stored blocks of data are processed without storing the received blocks of data in a long term memory medium and the blocks of data are deleted by the device following playback was well known in the art (official notice has been taken by the examiner). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Janky in order to ensure temporarily storing data in less time than needed to play.

7. As to claims 20-29, 34-41, 46-62, the claims are similar in scope to claims 1-12, 17-19, and they are rejected under the same rationale.

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Therefore, it can be seen from paragraphs 6-7 that the modified system of Janky teaches the limitations of claims 1- 12, 17-29, 34-41, 46-62.

8. Claims 13-16, 30-33 & 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky (US Pat. No. 5,914,941) in view of Ravi (US pat. No. 6,292,834).

9. As to claims 13-16, the modified system of Janky teaches a device for receiving and playing a multimedia file as been shown in paragraph 6 above. However, the modified system of Janky does not teach monitoring the buffer in order to adjust the transmission rate. Monitoring a buffer within a device to adjust data transmission rate was well known in the art as been shown by Ravi. Ravi shows in Figs 2-3, monitoring the buffer 366 (Fig 2) within a client 240 in order to adjust the data transmission rate, see the abstract, lines 6-19, col 3, lines 15-25, col 11, lines 27-38. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ravi with the modified system of Janky in order to prevent the buffer from overflowing and underflowing.

10. As to claims 30-33 & 42-45, the claims are similar in scope to claims 13-16, and they are rejected under the same rationale.

Therefore, it can be seen from paragraphs 9-10 that the combination of Janky and Ravi teaches the limitations of claims 13-16, 30-33, 42-45.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is (703) 305-9697. The examiner can normally be reached on week days from 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached on (703) 308-7562. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The fax number for the After-Final correspondence/amendment is (703) 746-7238. The fax number for official correspondence/amendment is (703) 746-7239. The fax number for Non-official draft correspondence/amendment is (703) 746-7240.

M.M.M

June 15, 2003

  
MOUSTAFA M. MEKY  
PRIMARY EXAMINER